

Application Serial No.: 09/847,395
Reply to Advisory Action dated August 6, 2003 and
Office Action dated May 1, 2003

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

The Applicants hereby request entry and consideration of the Amendment filed on July 24, 2003. The Applicants further request entry and consideration of the amendments and arguments set forth herein.

Claims 1-3, 7, and 10-13 are presently active in this case, Claims 10-13 having been added by way of the present Amendment and Claims 4-6, 8, and 9 having been canceled without prejudice or disclaimer.

In the outstanding Official Action, Claims 1-2, 5, and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over the '102 Rehfeld patent (U.S. Patent No. 5,773,102) in view of the '615 Rehfeld patent (U.S. Patent No. 5,478,615). Claims 1-3 and 5-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over the '102 Rehfeld patent in view of Garnier et al. (U.S. Patent No. 6,074,732). Claims 4 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the '102 Rehfeld patent in view of the '615 Rehfeld patent and further in view of Friedman et al. (U.S. Patent No. 5,908,704). For the reasons discussed below, the Applicants request the withdrawal of the obviousness rejections.

✓ Claims 4 and 8 have been canceled, thus the rejections thereof are moot.

Claim 1 of the present application recites a laminating glazing material that includes a single-ply intermediate layer abutting two glass sheets. Claim 7 recites a polymer film for use as only one intermediate layer of a laminated glazing material.

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The Official Action dated May 1, 2003, indicates that the '102 Rehfeld reference does not disclose an intermediate layer abutting two glass sheets. The Official Action cites the '615 Rehfeld et al. reference and the Garnier et al. reference for the teaching of a laminated glazing with an interlayer. The Official Action then rejects the claims as being obvious in view of the '102 Rehfeld reference in combination with either the '615 Rehfeld et al. reference or the Garnier et al. reference.

DWP 102
The Applicants respectfully submit that the teachings of the '615 Rehfeld et al. reference and the teachings of the Garnier et al. reference should not be combined with the '102 Rehfeld reference in the manner suggested in the Official Actions. More specifically, the '102 Rehfeld reference expressly teaches away from the use of a single layer interlayer between glass panes. Thus, the '102 Rehfeld reference should not be combined with references that teach such an interlayer, since such a configuration is directly contrary to the teachings of the '102 Rehfeld reference.

The '102 Rehfeld reference describes a laminated glass pane that is less expensive than other panes, since an expensive acoustic resin layer is replaced by a thin acoustic resin layer and a cheap, ordinary film. (See column 3, line 11-39, of the '102 Rehfeld reference.) Thus, the '102 Rehfeld reference describes the invention as "[a] soundproofing laminated glass pane comprising at least two transparent rigid sheets, at least one plastic film, and at least one film having ordinary acoustic performance...." (See Abstract, emphasis added. See also column 2, lines 38-45, and column 8, lines 23-44.) In the '102 Rehfeld reference, the area in between the glass sheets necessarily includes at least two films. The '102 Rehfeld reference expressly teaches method of reducing the cost of a soundproof glass pane by

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reducing the thickness of an expensive acoustic film (thereby reducing the amount of expensive material used in the pane) and the addition of a cheaper, second film having ordinary acoustic performance. Accordingly, if the '102 Rehfeld reference were limited to the use of only one of either the acoustic film or the second film, then the final product would be unsatisfactory for its intended purpose (e.g., not soundproof or too expensive). (See MPEP 2143.01 – The Proposed Modification Cannot Render the Prior Art Unsatisfactory for Its Intended Purpose.) Thus, the Applicants submit that the combinations are improper.

The Applicants respectfully submit that the rejections are based on the improper application of hindsight considerations. It is well settled that it is impermissible simply to engage in hindsight reconstruction of the claimed invention, using Applicants' structure as a template and selecting elements from the references to fill in the gaps. *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991). Recognizing, after the fact, that a modification of the prior art would provide an improvement or advantage, without suggestion thereof by the prior art, rather than dictating a conclusion of obviousness, is an indication of improper application of hindsight considerations. Simplicity and hindsight are not proper criteria for resolving obviousness. *In re Warner*, 397 F.2d 1011, 154 USPQ 173 (CCPA 1967).

Accordingly, the Applicants submit that the cited references do not render Claims 1 and 7 of the present application obvious. Accordingly, the Applicants respectfully request a withdrawal of the obviousness rejections of Claims 1 and 7.

Claims 2 and 3 are considered allowable for the reasons advanced for Claim 1 from which they depend. These claims are further considered allowable as they recite other

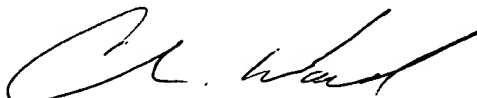
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features of the invention that are neither disclosed, taught, nor suggested by the applied references when those features are considered within the context of Claim 1.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

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